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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,220	12/11/2000	Marc W. Kauffman	D02487	5436

43471	7590	08/26/2005

GENERAL INSTRUMENT CORPORATION DBA THE CONNECTED
HOME SOLUTIONS BUSINESS OF MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

EXAMINER
DUONG, THOMAS

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/734,220	KAUFFMAN ET AL.
	Examiner	Art Unit
	Thomas Duong	2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 July 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Request for Continued Examination

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR

1.17(e) has been timely paid, the finality of the previous Office action has been

withdrawn pursuant to 37 CFR 1.114.

2.   Amendment received April 4, 2005 has been entered into record in response to the

request for continued examination filed on July 5, 2005. *Claims 1-30* remain pending.

Response to Amendment

3.   This office action is in response to the applicants Amendment filed on April 4, 2005.

Applicant amended *claims 1-2 and 21*. *Claims 1-30* are presented for further

consideration and examination.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by
another filed in the United States before the invention by the applicant for patent or (2) a patent
granted on an application for patent by another filed in the United States before the invention by the
applicant for patent, except that an international application filed under the treaty defined in section
351(a) shall have the effects for purposes of this subsection of an application filed in the United States
only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

5.   *Claims 1-30* are rejected under 35 U.S.C. 102(e) as being anticipated by Capek et al.

(US006094677A).

6.   With regard to *claims 1 and 21*, Capek discloses,

- *a first cache (insertion repository 22) for storing a received alternative media file;*

   (Capek, col.7, lines 17-25, lines 39-47; module 22, fig.2)

   Capek teaches of an insertion repository that stores data (multimedia,

   advertisements, announcements, etc.) to be inserted in the data stream delivered

   to the requested client.

- *a second cache (server 26) for storing a streaming multimedia file;* (Capek, col.7,

   lines 17-25; module 26, fig.2)

   Capek teaches of a server that stores data (multimedia, program material, etc.)

   to be delivered to the requested client.

- *a control unit (insertion manager 20) for receiving as a first input a control signal*

   from said first cache and generating as an output a switching control signal

   indicative of the presence or absence of a complete alternative media file being

   stored in said first cache; and (Capek, col.7, lines 17-25, lines 39-47; module 20,

   fig.2)

   Capek teaches of an insertion manager that inserts data (multimedia,

   advertisements, announcements, etc.) to be delivered to the requested client.

- *a switching mechanism, coupled to each one of said control unit, said first cache,*

   said second cache and said streaming multimedia file for providing as an output,

   directed to the at least one end-user, a stream selected from one of said first

cache, said streaming multimedia file and said second cache, as controlled by

said switching output signal from said control unit so as to insert the alternative

media file in the stream (Capek, col.5, lines 20-22; col.7, lines 49-52; col.9, lines

6-24; col.10, lines 18-28)

Capek includes a control mechanism that "will provide for the replacement of the

insertion by the requested program material once the program material is

received from the distribution server" (Capek, col.9, lines 11-13). In other words,

Capek's control mechanism will replace the insertion data, which may be "text,

graphics, animation, motion video, sound, etc" as well as "the combination of

data having different formats into a single insertion for providing a multimedia

experience" (Capek, col.7, lines 49-52), with the requested material once it is

available. According to Capek, the control logic's function is to "replaces the

insertion with the requested program material after the program is retrieved"

(Capek, col.5, lines 20-22). Also, the "insertion manager may then make a

determination of how long to provide the insertion to the user before beginning to

forward the buffered data to the client in order that the last byte of data is

delivered at approximately the same time as it would have been if the data had

been downloaded directly to the client" (Capek, col.10, lines 18-27).

- wherein the alternative media file is inserted in the stream independent of

  boundaries of the multimedia file. (Capek, col.5, lines 20-22, lines 41-52; col.7,

  lines 49-52; col.9, lines 6-24; col.10, lines 18-28)

  Capek includes a control mechanism that "will provide for the replacement of the

  insertion by the requested program material once the program material is

  received from the distribution server" (Capek, col.9, lines 11-13). In other words,

Capek's control mechanism will replace the insertion data, which may be *"text, graphics, animation, motion video, sound, etc"* as well as *"the combination of data having different formats into a single insertion for providing a multimedia experience"* (Capek, col.7, lines 49-52), with the requested material once it is available. According to Capek, the control logic's function is to *"replaces the insertion with the requested program material after the program is retrieved"* (Capek, col.5, lines 20-22). Also, the *"insertion manager may then make a determination of how long to provide the insertion to the user before beginning to forward the buffered data to the client in order that the last byte of data is delivered at approximately the same time as it would have been if the data had been downloaded directly to the client"* (Capek, col.10, lines 18-27). In addition, Capek teaches *"wherein an insertion is selectively transmitted to the first application if the amount of time required to retrieve the requested information is sufficient to transmit the insertion to the first application. The transmission of the retrieved application may, on the other hand, be preceded by waiting a preselected period of time. The preselected period of time may be based upon the insertion transmitted to the first application. The preselected period of time may alternatively be based upon the amount of time required to retrieve the information from the second computer"* (Capek, col.5, lines 41-52). Hence, Capek teaches of inserting the alternate media file into the multimedia stream regardless of the stream since the insertion, as *"a complete insertion or elements of an insertion that can be used to generate a complete insertion dynamically"* (Capek, col.5, lines 14-16) can be done while waiting for the retrieval of

requested stream (i.e. during a network delay in the middle of transmitting the

multimedia perhaps), before the transmission of the multimedia altogether, etc.

7.   With regard to *claim 2*, Capek discloses,

- *a first cache (insertion repository 22) for storing a received alternative media file;*

  (Capek, col.7, lines 17-25, lines 39-47; module 22, fig.2)

  Capek teaches of an insertion repository that stores data (multimedia,

  advertisements, announcements, etc.) to be inserted in the data stream delivered

  to the requested client.

- *a second cache (server 26) for storing a streaming multimedia file;* (Capek, col.7,

  lines 17-25; module 26, fig.2)

  Capek teaches of a server that stores data (multimedia, program material, etc.)

  to be delivered to the requested client.

- *a control unit (insertion manager 20) for receiving as a first input a control signal*

  from said first cache and generating as an output a switching control signal

  indicative of the presence or absence of a complete alternative media file being

  stored in said first cache; and (Capek, col.7, lines 17-25, lines 39-47; module 20,*

  fig.2)

  Capek teaches of an insertion manager that inserts data (multimedia,

  advertisements, announcements, etc.) to be delivered to the requested client.

- *a switching mechanism, coupled to each one of said control unit, said first cache,*

  said second cache and said streaming multimedia file for providing as an output,

  directed to the at least one end-user, a stream selected from one of said first

  cache, said streaming multimedia file and said second cache, as controlled by

said switching output signal from said control unit so as to insert the alternative

media file at a predetermined location in the stream, including either one of the

beginning and the end of the streaming multimedia file, (Capek, col.5, lines 20-

22, lines 41-52; col.7, lines 49-52; col.9, lines 6-24; col.10, lines 18-28)

Capek includes a control mechanism that *"will provide for the replacement of the*

insertion by the requested program material once the program material is

received from the distribution server" (Capek, col.9, lines 11-13). In other words,

Capek's control mechanism will replace the insertion data, which may be *"text,*

graphics, animation, motion video, sound, etc" as well as *"the combination of*

data having different formats into a single insertion for providing a multimedia

experience" (Capek, col.7, lines 49-52), with the requested material once it is

available. According to Capek, the control logic's function is to *"replaces the*

insertion with the requested program material after the program is retrieved"

(Capek, col.5, lines 20-22). Also, the *"insertion manager may then make a*

determination of how long to provide the insertion to the user before beginning to

forward the buffered data to the client in order that the last byte of data is

delivered at approximately the same time as it would have been if the data had

been downloaded directly to the client" (Capek, col.10, lines 18-27). In addition,

Capek teaches *"wherein an insertion is selectively transmitted to the first*

application if the amount of time required to retrieve the requested information is

sufficient to transmit the insertion to the first application. The transmission of the

retrieved application may, on the other hand, be preceded by waiting a

preselected period of time. The preselected period of time may be based upon

the insertion transmitted to the first application. The preselected period of time

may alternatively be based upon the amount of time required to retrieve the

information from the second computer" (Capek, col.5, lines 41-52). Hence,

Capek teaches of inserting the alternate media file into the multimedia stream

regardless of the stream since the insertion, as *"a complete insertion or elements*

of an insertion that can be used to generate a complete insertion dynamically"

(Capek, col.5, lines 14-16) can be done while waiting for the retrieval of

requested stream (i.e. during a network delay in the middle of transmitting the

multimedia perhaps), before the transmission of the multimedia altogether, etc.

- *wherein the control signal output from the first cache indicates that a complete*

  alternative file is stored and is ready for transmission to the predetermined at

  least one end-user, or will be ready in time to transmit. (Capek, col.7, lines 17-25,

  lines 39-47)

  Capek teaches of complete insertions of data to be delivered to the requested

  client.

8.   With regard to *claims 3 and 22-23*, Capek discloses,

- *wherein the control signal output from the first cache indicates that a complete*

  alternative file is stored and is ready for transmission to the predetermined at

  least one end-user. or will be ready in time to transmit. (Capek, col.7, lines 17-25,

  lines 39-47)

  Capek teaches of complete insertions of data to be delivered to the requested

  client.

9.   With regard to *claims 4-9*, Capek discloses,

- *wherein the switching mechanism supplies as an output the streaming multimedia file in the absence of a signal from the control unit that an alternative file is ready to transmit.* (Capek, col.9, lines 6-24)

  Capek teaches of a control mechanism that interacts with and control the insertion of data (multimedia, advertisements, announcements, etc.) delivered to the requested client.

10.   With regard to *claims 10-11*, Capek discloses,

- *wherein the alternative file is defined as an advertisement file.* (Capek, col.7, lines 17-25, lines 39-47; col.7, line 66 – col.8, line 10; col.8, lines 11-14)

  Capek teaches of an insertion repository that stores data (multimedia, advertisements, announcements, etc.) to be inserted in the data stream delivered to the requested client.

11.   With regard to *claims 12-20*, Capek discloses,

- *wherein the arrangement is disposed at a local point of presence in a communication network.* (Capek, col.7, lines 26-37)

12.   With regard to *claims 24-30*, Capek discloses,

- *wherein in performing step d), switching from said streaming multimedia file to said alternative file when recognizing that an alternative file is available.* (Capek, col.9, lines 6-24)

Capek teaches of a control mechanism that interacts with and control the

insertion of data (multimedia, advertisements, announcements, etc.) delivered to

the requested client.

Response to Arguments

13.   Applicant's arguments with respect to *claims 1-2 and 21* have been considered but are

deemed not persuasive.

Conclusion

14.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Thomas Duong whose telephone number is 571/272-3911. The

examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the

examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-

Wallace can be reached on 571/272-6159. The fax phone numbers for the organization

where this application or proceeding is assigned are 703/872-9306 for regular

communications and 703/872-9306 for After Final communications.

Thomas Duong (AU2145)

August 19, 2005

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER